



COMMISSION OF THE EUROPEAN COMMUNITIES

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**COMMUNICATION FROM THE COMMISSION  
TO THE EUROPEAN PARLIAMENT**

**pursuant to the second subparagraph of Article 251 (2) of the EC Treaty**

**concerning the**

**common position of the Council on the adoption of a Directive of the European Parliament and of the Council amending Council Directive 83/477/EEC on the protection of workers from the risks related to exposure to asbestos at work.**

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### **1. BACKGROUND**

On 20 July 2001, the Commission presented to the Council and the European Parliament its proposal for a Directive COM(2001) 417 final. The Economic and Social Committee delivered its opinion on 21 February 2002. The Committee of the Regions stated in a letter dated 13 February 2002 that it would not issue an opinion on this subject. On 11 April 2002, the European Parliament adopted 39 amendments at first reading, two of them linguistic. The Commission accepted nine of them in full, three in part, and rejected 25. Following the opinion of the European Parliament and pursuant to Article 250(2) of the EC Treaty, the Commission adopted an amended proposal on 16 May 2002 (COM(2002) 254 final) and sent it to the Council and the European Parliament.

The Council (Employment and Social Policy) reached a political agreement on a common position on 3 June 2002.

The Council adopted its common position on 23.9.2002.

### **2. AIM OF THE COMMISSION PROPOSAL**

The original proposal was based on Article 137(2) of the Treaty. The proposal takes the form of a directive amending Directive 83/477/EEC.

It takes account of, and is linked to, the ban on the marketing and use of chrysotile asbestos introduced by Council Directive 76/769/EEC<sup>1</sup>, as amended by Commission Directive 1999/77/EC<sup>2</sup> with effect from 1 January 2005.

This proposal for a Directive responds to the need to strengthen protective measures against exposure to asbestos, principally in the risk situations most frequently encountered nowadays, such as demolition, maintenance and repair work.

Central to the proposal is the introduction of a single exposure limit value for workers which is significantly lower than the two limit values laid down in the existing directive.

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<sup>1</sup> OJ L 262, 27.9.1976, p. 201.

<sup>2</sup> OJ L 207, 6.8.1999, p. 18.

The proposal applies to all sectors of activity, including sea and air transport, which are currently excluded from the scope of Directive 83/477/EEC. The proposal simplifies certain bureaucratic provisions in cases of sporadic and limited exposure, indicates a reference method for measuring the concentration of asbestos fibres in the air, and contains more precise provisions on training of workers and the obligation on companies to provide proof of their competence to carry out demolition or asbestos removal work.

The proposal for a Directive is also of major importance with a view to the accession of new Member States to the European Union, as exposure of workers to asbestos remains significant in several candidate countries.

### **3. COMMENTS ON THE COMMON POSITION**

#### **3.1. General**

In general, the Council's common position is in line with the spirit of the Commission's original proposal. However, it incorporates only some of the European Parliament's amendments at first reading accepted by the Commission in its amended proposal.

A number of points in the Commission proposal have been reformulated or even reinforced in the common position.

The most significant difference compared with the Commission proposal is the introduction of a ban on activities which expose workers to asbestos fibres during the extraction, manufacture or processing of products containing asbestos. This ban constitutes very significant progress in terms of protecting the health and safety of the workers concerned.

#### **3.2. European Parliament amendments at first reading**

The European Parliament adopted 39 amendments at first reading, two of them linguistic.

Amendment 1 was adopted in full, both in the common position and in the amended proposal.

Amendment 34, accepted in full in the amended proposal, has been incorporated into the common position with changes to the wording.

The Council has also accepted in part amendments 20 (reformulated) and 25 (first part) as incorporated into the amended proposal.

Amendments 11, 17, 18, 19, 22, 31 and 32, which were incorporated into the amended proposal, and amendment 23 (first part) have not been included in the common position.

Amendments 2, 3, 4, 6, 7, 8, 9, 12, 13, 14, 16, 21, the second part of amendments 23 and 25, 24, 26, 27, 28, 30, 33, 35, 36, 37, 38, 40, 41 and 42 have not been included in the common position or the amended proposal for reasons of — depending on the case — legal coherence and legislative technique, subsidiarity, absence of an

appropriate legal basis, clarity in technical terminology or the need to avoid imposing excessive bureaucracy on companies and administrations.

The principal differences between the amended proposal and the Council's common position are as follows:

The common position does not include certain points of the amended proposal, such as the obligation to take measures to prevent the release of asbestos dust outside the workplace, and rest breaks for workers obliged to use individual respiratory equipment.

The Commission, while adhering to the opinion that the use of individual respiratory equipment necessitates rest breaks, accepts the common position as part of an overall agreement.

### **3.3. New provisions introduced by the Council, and the Commission's position**

The common position provides for a ban on activities which expose workers to asbestos fibres during the extraction of asbestos, the manufacture and processing of asbestos products, or the manufacture and processing of products containing deliberately added asbestos, with the exception of the treatment and landfill of products resulting from demolition and asbestos removal.

The Commission, although it would have preferred to obtain the opinion of the Scientific Committee on Toxicology, Ecotoxicology and the Environment before adopting this ban, accepts it, since its socio-economic impact is very limited and it constitutes reinforced protection of workers' health, which is in line with the European Union's position within the WTO.

The common position also reformulates the criteria laid down in Article 1(3) for the possible non-application of Articles 4, 15 and 16 of the Directive in the case of sporadic and limited exposure.

The Commission has accepted this reformulation, as it considers that the criteria laid down by the common position on this subject are appropriate and do not imply any reduction in the level of protection of workers.

## **4. CONCLUSIONS/GENERAL COMMENTS**

The Commission supports the common position in its entirety.

## **5. COMMISSION STATEMENTS**

See annex.

**ANNEX**

**DRAFT STATEMENT FOR THE COUNCIL MINUTES**

Article 5(2) (Directive 83/477/EEC)

The Commission, while agreeing with the Council's objective, would have preferred to await the opinion of the Scientific Committee on Toxicology, Ecotoxicology and the Environment, which is currently examining the latest scientific evidence relating to chrysotile (white asbestos).

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